

**EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503**

December 23, 2004

MEMORANDUM FOR THE HEADS OF FEDERAL AGENCIES

FROM: JAMES L. CONNAUGHTON~0

**SUBJECT: REPORTING COOPERATING AGENCIES IN IMPLEMENTING THE
PROCEDURAL REQUIREMENTS OF THE NATIONAL
ENVIRONMENTAL POLICY ACT**

The January 30, 2002, Memorandum for Heads of Federal Agencies, Subject: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act¹, consistent with the President's commitment to increase local participation and facilitate cooperative conservation, established a reporting requirement for all EISs and EAs. The purpose of this Memorandum is to establish a revised report to ensure that all Federal agencies are consistently reporting designation of Federal and non-federal cooperating agencies in the preparation of analyses and documentation required by the National Environmental Policy Act (NEPA).²

This memorandum ends the six month reporting requirement and establishes an improved reporting mechanism. We developed the new report format based on recommendations from your agencies to more accurately measure our progress in assuring cooperating agency status to federal and non-federal governmental bodies that qualify for such status. CEQ will convene an interagency work group to develop metrics applicable to all agencies for using the reports to improve agency NEPA processes and decisionmaking.

Agencies of the Federal government responsible for preparing NEPA analyses will now report once each fiscal year (FY). The report will be due three months after the close of the FY. For example, the first such report for October 1, 2004 through September 30, 2005 will be due on January 3, 2006.

For EISs with a Notice of Intent published between October 1, 2004 and September 30, 2005, the lead agency will report: (1) the title of the EIS; (2) the names of the cooperating agencies for the EIS; (3) the names of agencies who declined an invitation to participate as a cooperating agency or who requested but failed to reach agreement on establishing cooperating agency status and agencies whose cooperating agency status was ended, and the reason(s)

¹ Available at <http://ceq.eh.doe.gov/nepalregs/guidance.html>

² Cooperating agency status under NEPA is not equivalent to other requirements calling for an agency to engage another governmental entity in a consultation or coordination process (e.g., Endangered Species Act section 7, National Historic Preservation Act section 106). Agencies are urged to integrate NEPA requirements with other environmental review and consultation requirements (40 C.F.R. § 1500.2(c)); and reminded that establishing or ending cooperating agency status does not satisfy or end those other requirements.

cooperating agency status was not established or was ended; and (4) the current status of the EIS. Reports after FY 05 would include updates to previous reports on EISs.

For EAs, the lead agency will report: (1) the number of EAs completed between October 1, 2004 and September 30, 2005; (2) the number of those EAs which included participation of one or more cooperating agencies; and (3) the reasons agencies did not accept invitations or reach agreement to participate as cooperating agencies, or ended the cooperating agency status prior to completing the EA.

The form for submitting the annual report is attached (Attachment 1). Also attached are Frequently Asked Questions and Answers developed with the agencies to address common issues and be used in conjunction with the report form (Attachment 2).

If you have any questions concerning this memorandum, please contact Horst G. Greczmiel, Associate Director for NEPA Oversight at 202-395-5750, HorstGreczmiel~ceq.eop.gov, or 202-456-0753 (fax).